

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

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|---|---|------------------------------|
| LEN STOLER, INC., d/b/a LEN STOLER |) | |
| AUDI, |) | |
| Plaintiff, |) | Case No. 1:15-cv-1659 |
| |) | |
| v. |) | |
| |) | |
| VOLKSWAGEN GROUP OF AMERICA, |) | |
| INC., d/b/a AUDI OF AMERICA, INC., |) | |
| Defendant. | | |

ORDER

The matter came before the Court on the parties' cross motions for summary judgment (Docs. 43 & 74). The matter was fully briefed and argued, and the parties' arguments have been treated thoroughly in a Memorandum Opinion of even date. Thus, the cross motions for summary judgment are ripe for disposition.

Defendant has moved for summary judgment on five statutory claims raised in plaintiff's amended complaint. Each of the following claims arises under the Maryland Transportation Code ("MTC"):

- MTC § 15-207(h)(1)(i) (the "Offer Claim");
- MTC § 15-207(h)(2)(i) (the "Require Claim");
- MTC § 15-207(h)(2)(ii) (the "Benefit Claim");
- MTC §§ 15-207(h)(3)(i) & (ii) (the "Price Reduction Claim"); and
- MTC § 15-207(b) (the "Coercion Claim").

Plaintiff, in its cross motion, seeks summary judgment on four of plaintiff's statutory claims: (i) the Offer Claim, (ii) the Require Claim, (iii) the Benefit Claim, and (iv) the Price Reduction Claim. Plaintiff also seeks summary judgment on defendant's sole counterclaim and

three affirmative defenses, which invoke a covenant not to sue and the doctrines of *in pari delicto* and unclean hands.

For good cause, and for the reasons stated in the Memorandum Opinion of even date,

It is hereby **ORDERED** that plaintiff's motion for summary judgment (Doc. 43) is **GRANTED IN PART** and **DENIED IN PART**. Specifically:

- plaintiff's motion for summary judgment is **GRANTED** with respect to defendant's counterclaim arising under the covenant not to sue; and
- plaintiff's motion for summary judgment is **DENIED** in all other respects.

It is further **ORDERED** that defendant's motion for summary judgment (Doc. 74) is **GRANTED IN PART** and **DENIED IN PART**. Specifically:

- Defendant's motion for summary judgment is **GRANTED** with respect to:
 - the Offer Claim, MTC § 15-207(h)(1)(i);
 - the Require Claim, MTC § 15-207(h)(2)(i); and
 - the Benefit Claim, MTC § 15-207(h)(2)(ii).
- Defendant's motion for summary judgment is **DENIED** in all other respects.

It is further **ORDERED** that defendant's affirmative defense arising under the covenant not to sue is **DISMISSED AS MOOT**.


Therefore, the matter proceeds to trial on the following claims and affirmative defenses:

- the Price Reduction Claim, MTC §§ 15-207(h)(3)(i) & (ii);
- the Coercion Claim, MTC § 15-207(b); and
- defendant's affirmative defenses of unclean hands and *in pari delicto*.

It is further **ORDERED** that the parties are **DIRECTED** to appear for a final pretrial conference, which is hereby **SCHEDULED** for 10:00 a.m. Friday, February 10, 2017. An appropriate trial date will be set during the course of the final pretrial conference.

The Clerk is directed to send a copy of this Order to all counsel of record.

Alexandria, Virginia
January 25, 2017



T. S. Ellis, III
United States District Judge